

## SUBMISSION BY HÁTTÉR SUPPORT SOCIETY FOR LGBT PEOPLE IN HUNGARY FOR THE OSCE ODIHR ANNUAL REPORT ON HATE CRIMES 2012

March 22, 2013

The increase in the number of reports about homophobic and transphobic incidents at our counseling hotline and legal aid service continued in 2012 as well. While our experiences in offering legal aid to victims of hate crimes still show that the relevant authorities are very reluctant to implement the provisions on hate crimes in the Criminal Code, it is a sign of potential hope that NGOs working in the field of hate crimes started to work together more intensively, and that there is a growing level of awareness about bias motivated incidents among policy makers and academics.

### **Cases reported:**

Below is a list of selected cases reported to our organization.

#### **Case 1**

Date, time and location of the incident: March 22, 2012, 19:10, Budapest, Hungary

Source of information: interview with the victim, police files

Victim(s) involved: gay male aged 26

Type of the crime(s): death threat, physical violence

Perpetrator(s): two young males

Brief description of incident with bias indicators: G.M.<sup>1</sup> was travelling home on a trolleybus when two young men under the influence of alcohol started calling the victim humiliating names ("little fagot", "cocksucker"). He got off the trolley at Lövölde tér and whispered to himself: "Come on!". The two men got off the trolleybus and followed him. They tried to kick him, but spilt beer over themselves instead. One of the guys started assaulting him and threatened to kill him. The victim fell to the ground and was kept being punched in the face. The victim's nose was broken.

Status of the case: reported to the police, not investigated under Article 174/B, investigation suspended – perpetrator unknown

Response of local authorities: The victim reported the case to the police detailing the name calling and the circumstances indicating a hate crime. His concerns about the hate aspect were not included in the written version of his testimony. He contacted the legal aid service of



**Háttér Support Society for LGBT People in Hungary**, founded in 1995, is the largest LGBT NGO in Hungary. It operates a telephone hotline, a legal aid service, an HIV/AIDS prevention program and an archive documenting the history of the LGBT movement in Hungary. Besides its core activities Háttér regularly participates in research and training projects and is actively involved in lobbying for advancing the rights of LGBT people through legal change. Háttér is founding member of the Hungarian LGBT Alliance, and active member of ILGA-Europe and Transgender Europe.

E-mail: [hatter@hatter.hu](mailto:hatter@hatter.hu) ♦ Phone/fax: +36-1-329-2670 ♦ Internet: [www.hatter.hu](http://www.hatter.hu)

Háttér, and two days later he supplemented his report by specifically calling on the police to investigate the case as a hate crime. On 8 May 2012 the police suspended the investigation qualifying it as bodily harm, disregarding the hate aspect. Háttér submitted a complaint which was rejected by the prosecution claiming that the name calling does not constitute hate motivation, because such swearwords are commonly used by everyday people under alcoholic influence. The case never reached the unit responsible for such investigations; it was investigated by a district police in Budapest.

## **Case 2**

Date, time and location of the incident: April 17, 2012, 21:23, Söréd, Hungary

Source of information: reported via internet form

Victim(s) involved: gay male aged 35

Type of the crime(s): violent threats, physical violence

Perpetrator(s): 5 men aged 28-45

Brief description of incident with bias indicators: N.G. is living in a small village in rural Hungary. It is known in the village that he is gay: he used to live with his partner, and his father tells everyone in the village that his son is a “faggot”. N.G. lives close to the local pub, and when passing by the pub going to the bus stop or doing the shopping, he is often harassed by drunk men in the pub. One time he was told “We are going to beat you up, and make a pudding out of you!”. In April 2012 when passing by the pub after sunset, people from the pub started chasing him and pushed him to the ditch. While there were several witnesses, they all cheered for the perpetrators. N.G. is afraid to report the incident to the police, because he thinks he will be further ostracized and harassed by the villagers.

Status of the case: not reported to the police

## **Case 3**

Date, time and location of the incident: May 20, 2012, early afternoon, Budapest, Hungary

Source of information: interview with the victim, police files

Victim(s) involved: bisexual male in his early 30s

Type of the crime(s): violent threats

Perpetrator(s): larger group of people belonging to the extreme right

Brief description of incident with bias indicators: I.J. is an LGBT and political activist whose photos have been widely circulated in the right wing media. On May 20, 2012 I.J. was taking a Sunday afternoon walk, when he noticed a larger group of people in front of a bookshop. He went closer to see what is going on, and saw it was a demonstration by the extreme right wing party Jobbik. Since his PhD research topic includes political movements, he stayed to observe the event. Soon he was recognized by some people in the crowd as a “dirty liberal” and a “faggot”. When the possibility was offered for anyone at the event to speak, he was encouraged by these people to also speak. When he took the microphone in his hand, the

crowd started shouting “dirty faggot”, and surrounded him in a threatening manner. The police securing the event intervened and rescued him from the crowd. He started walking away, but members of the crowd followed him shouting violent threats such as “an umbrella should be stuck and opened in your ass”.

Status of the case: reported to the police, investigated under Article 174/B, investigation closed – no crime committed

Response of local authorities: After the police noticed that he was still followed by members of the crowd, he was surrounded by the police and asked for an ID. While checking his ID, the police let the perpetrators so close that they had the opportunity to see his personal data in his documents over the shoulder of the police officers. No one of the perpetrators was asked for an ID or apprehended. I.J. submitted a complaint to the Independent Police Complaint Board claiming that the police failed to perform their duty to act when they saw criminal activity (violence against a member of a community via intimidating behavior and forcing the victim to not do something via threats) and that the ID check was not professionally done. The Board agreed with the complaint that the police should have acted on the spot against the perpetrators, as the suspicion of criminal activity was obvious, but declared the right violation to be of minor importance thus transferred the case to the Police. Meanwhile, I.J. also reported the incident to the Police. The police started the investigation of the incident as a hate crime, but closed it on December 13, 2012 claiming that no crime had been committed. I.J. submitted a complaint, but the Prosecution Service agreed with the Police.

#### **Case 4**

Date, time and location of the incident: June 24, 2012

Source of information: police files

Victim(s) involved: 31 persons

Type of the crime(s): preparation for violence

Perpetrator(s): extreme right wing news portal

Brief description of incident with bias indicators: On June 27 – July 1, 2012 Budapest was to host the Eurogames, a European level LGBT sport event bringing several thousand LGBT contestants to Hungary from all around Europe. Prior to the event several news portals affiliated with extreme right wing political groups started publishing articles calling for the banning of the event and creating a hostile environment against the organizers and the participants. On June 24, 2012 the extreme right wing news portal deres.tv carried an article with the title *The Hunting Season Starts! List of the organizers of the faggot Olympics in one place, hotels where the queers stay soon to come*. The article contained the name and photo of 31 persons downloaded from Facebook, whom the authors claimed were the organizers of the event. The article called for “using whatever means necessary”, “the highest form of resistance”, the article also claimed that they publish the list of organizers to help “faggot hunters”. The following day a list of hotels where the participants would stay was published referring to the participants as “game to hunt down” (game referring to wild animals).

Status of the case: reported to the police, investigated under Article 174/B., investigation suspended – perpetrator unknown

Response of local authorities: Several people reported the incident to the police and the National Media and Infocommunications Authority, claiming the perpetrators committed the following crimes: incitement to hatred, misuse of personal data, and preparation (conspiracy) to commit violence against a member of the community. While the Police refused to investigate charges of incitement to hatred and misuse of personal data claiming no crime had been committed, an investigation concerning preparation to commit violence against a member of the community was initiated. On August 2, 2012 the Police closed the investigation finding that no crime had been committed as the calls for violence did not result in actual violent attacks. Háltér appealed the decision, and on October 25, 2012 the Prosecution Service ordered the Police to continue the investigation as the crime had been committed, since by calling for violence and providing the personal data of the victims-to-be, the authors of the article facilitated the commitment of future violent acts. On February 1, 2013 the Police suspended the investigation as the operators of the website were not identifiable, as the website was operated from the USA. While the legal basis exists for it, the Police decided not to ask for cooperation from the foreign police. The case was investigated by a district police in Budapest and not the unit responsible for such investigations.

Impact on the victim(s) and the community: This article and similarly hostile statements about the event resulted in several participants cancelling their participation. The organizers decided to take extra security measures: the programs took place “in secrecy”, the venues of the various events were not advertised, and information was provided only after undergoing thorough security check at the main venue. There was strong police presence at each venue where programs related to the event took place. Many member of the local LGBT community decided not to visit the events as a spectator in fear of being subjected to violence.

## **Case 5**

Date, time and location of the incident: July 7, 2012, 18:00, Budapest, Hungary

Source of information: interview with the victims, police files

Victim(s) involved: mother with a small child, two men in their 20s

Type of the crime(s): criminal damage, harassment, physical violence

Perpetrator(s): 10-12 members of extreme right wing groups protesting against the Pride march

Brief description of incident with bias indicators: Participants of the 2012 Pride March were leaving the end scene of the March via the route suggested by the police. Right outside the police cordons a larger group of anti-gay protesters dressed in clothes usually associated with extreme right wing groups were verbally harassing those leaving the premises. A mother with her small child carrying balloons was also harassed, and the balloons punched. Two brothers were also harassed and one of them kicked by an anti-gay protester.

Status of the case: reported to the police, investigation in progress under Article 174/B., perpetrator identified

Response of local authorities: The two brothers requested help from a police officer present nearby, but he refused to act claiming he was only responsible for guiding the traffic. Soon other police officers arrived, and started questioning the attackers still present. One of the attackers, who kicked the victim, was apprehended. The police started investigating the case as a hate crime, the victims and several witnesses were questioned. While the perpetrators were identified on the spot, the file was tossed around several police units for months, and is currently investigated by a district police in Budapest and not the unit responsible for such investigations. The investigation is still ongoing.

Impact on the victim(s) and the community: This and several similar incidents following the march shows that the protection of LGBT events by the police is still not up to the standards: while protection during the march is appropriate, the police fails to protect those leaving the march, making the attendance of the march a severe security risk. This risk stops many potential participants from participating at such events.

## **Case 6**

Date, time and location of the incident: July 28, 2012, 16:00-16:45, Kisigmánd, Hungary

Source of information: interview with the victim, police files

Victim(s) involved: group of LGBT people

Type of the crime(s): violent threats

Perpetrator(s): 10-15 males affiliated with the extreme right wing party Jobbik

Brief description of incident with bias indicators: On July 25-29, 2012 a summer camp was held for LGBT people in a small village in Hungary. The local chapter of the extreme right wing Jobbik learned about the camp and organized a “press conference” in front of the camp to protest against the event. The “press conference” was more of a demonstration, than a conference as no members of the press came, but 14-15 local Jobbik supporters stayed around the camp and harassed the campers with statements like “my wife allowed me to come here only if I wore a chastity belt”, “fucking faggots”, etc. The “press conference” was secured by the police. After the event was over, everyone including the police left, but about 10 of the same people returned with cars and shouted threatening lines at the campers, one was explicitly referring to the risk of having one’s house burnt down.

Status of the case: reported to the police, investigation refused – no crime committed

Response of local authorities: S.L. reported the incident to the Police. While he explicitly asked for investigating the case under Article 174/B as violence against a member of a community, the police refused to investigate the case claiming it was not stalking. S.L. submitted a complaint asking for investigating the case as a hate crime, but the Prosecution Service found that the threats did not amount to antisocial intimidating behavior, and thus no crime was committed.

Impact on the victim(s) and the community: A general sense of fear took over the camp: many were afraid that the protestors would return during the night and attack the campers. Many of the participants decided to leave the camp and return home early.

## **Case 7**

Date, time and location of the incident: December 16, 2012, 01:00, Budapest, Hungary

Source of information: interview with the victim, police files

Victim(s) involved: gay male in his mid-20s

Type of the crime(s): physical violence

Perpetrator(s): 2 males in their 20s

Brief description of incident with bias indicators: L.C. was heading to a party with his gay male friends on a night bus at 1:00 when 2 men in their 20s started to make comments about gay people (“faggots”, “it’s really warm in here” (the word used in Hungarian for gays literally translates to “warm”). When getting off the bus, the two men were right behind L.C. and said “Hurry up, you faggot!”. L.C. turned back and was punched in the face. L.C. used a swearword in return. In response one of the two men pushed him to the ground and he was punched several times. L.C. suffered light bruises.

Status of the case: reported to the police, investigation in progress under Article 174/B

Response of local authorities: L.C. reported the incident to the Police the following day, accompanied by a member of Háttér legal aid service. While the victim clearly stated even before the interrogation started that he thinks the incident happened because of his sexual orientation and information related to this aspect of the case made it to the report, the police officer insisted on taking the report as bodily harm, and not a violence against a member of a community (Art. 174/B). When the legal representative insisted that the case be investigated as a hate crime, the police became quite hostile, but agreed to attach the request to the official report. The victim was questioned once again two months later, by the time the incident was qualified as a 174/B case.

### **Legislative changes:**

On June 25, 2012 the Hungarian Parliament adopted a new Criminal Code bringing about changes to legislation on hate crimes. While keeping an open ended list, the legislator added disability, sexual orientation and gender identity to the specifically mentioned list of grounds in the hate crime provision (Article 216: Violence against a member of a community). The new law also raises the sanction for simple (non-aggravated) hate crimes from up to 5 years to 1-5 years. The law will enter into force on July 1, 2013.

### **Practical initiatives:**

In January 2012, five Hungarian NGOs (Amnesty International Hungary, Háttér Support Society for LGBT People in Hungary, Hungarian Civil Liberties Union, Hungarian Helsinki Committee and Legal Defence Bureau for National and Ethnic Minorities) active in the field of hate crimes founded the Hate Crime Working Group. The working group aims at reducing the number of bias motivated crimes in Hungary via making the implementation of hate crimes legislation more efficient and securing protection to the victims. The participating organizations coordinate their work in the field of hate crimes, share the experiences they acquire while offering legal aid for individual victims of hate crimes, and advocate for legal and institutional reforms together. The first success of the Working Group was the inclusion

of sexual orientation, gender identity and disability in the new Criminal Code, and prompting the Police to start hate crime investigations in several cases which were originally not treated as such. The Working Group is currently preparing a detailed commentary on hate crimes provisions in the Criminal Code, is lobbying for setting up a network of hate crimes specialists in the police and adopting a police protocol on how to deal with hate crime cases, and mainstreaming the issues of hate crimes in the police training curricula.

Three of the five participating NGOs (Legal Defence Bureau for National and Ethnic Minorities, Háttér Support Society for LGBT People in Hungary and the Hungarian Civil Hungarian Helsinki Committee) started a yearlong project in September 2012 bearing the title “Creating a National Hate Crimes Strategy and Action Plan”. The project aims at crafting via participative methods a strategic document to be later adopted by the relevant state agencies involved in the field of hate crimes. As part of the project, open forums were held targeting those social groups that become victims of hate crimes most often (Roma, LGBT People, foreigners and asylum seekers). In the next phase, interviews will be conducted with relevant stakeholders and a problem map will be prepared on the treatment of hate crimes in Hungary. The problem map will serve as the basis for developing a national strategy in cooperation with relevant state actors (police, prosecutions, judiciary, victim services, universities and relevant NGOs).

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<sup>1</sup> Initials changed to protect the victims' anonymity.